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Montana. State  
Board of Land  
Commissioners  
Annual report of  
the State Board of  
Land Commissioners  
for the year

Jun 1977  
STATE DOCUMENTS

# SECOND ANNUAL REPORT

OF THE

# STATE BOARD

OF

# LAND COMMISSIONERS

FOR THE YEAR 1892.

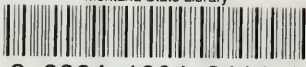
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SECOND ANNUAL REPORT  
OF THE  
STATE BOARD  
OF  
LAND COMMISSIONERS  
FOR THE YEAR 1892.

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HELENA, MONT.  
1892.

**SECOND ANNUAL REPORT.**

# SECOND ANNUAL REPORT

OF THE

## STATE BOARD OF LAND COMMISSIONERS

FOR THE YEAR 1892.

OFFICE STATE BOARD OF LAND COMMISSIONERS, }  
HELENA, MONTANA, Dec. 1, 1892. }

*To His Excellency, Joseph K. Toole, Governor of Montana:*

SIR:—In compliance with the provisions of Section 48 of the Act providing for “the selection, location, appraisal, sale and leasing of State lands,” we have the honor to submit the following report of the business transacted by this board for the year ending November 30, 1892.

The beginning of the second year found the board, as stated in the conclusion of our report for 1891, ready to proceed with the duties assigned to them by law in the matter of the appraisement, sale and leasing of State lands.

### APPRAISEMENT.

The appraisement of the counties of Missoula, Gallatin, Lewis and Clarke and Cascade have been completed and the reports of the appraisers are now on file in this office. In regard to the appraisement in our report of 1891, we said:

“We desire, in connection with this matter of appraisement, to say that, as far as our limited experience has given us an opportunity to judge, the present system of appraisement is not by any means the best that could be devised, being exceedingly slow and unreasonably expensive. It is, however, but fair to say that it has not as yet had a fair trial, but if future experience should confirm our present impressions, some necessary amendments will be recommended in our report of 1892.”

Subsequent experience firmly convinces us of the necessity of some change in this law. Section 40 of the Act providing for "the selection, location, appraisal, sale and leasing of State lands" provides that "the appraisers shall receive \$4 per day for the time actually employed in such appraisement, to be paid by warrants of the Auditor of the State on the State Treasurer." The appraisers were appointed by the several boards of county commissioners when directed by this board to do so, but in nearly every case refused to act on the ground that the compensation fixed by law was not sufficient to more than pay the actual expenses that would be incurred by them in making the appraisement, leaving them nothing for services rendered. An investigation being made by this board it was found that this objection was well taken, and that the necessary expenses would be about \$4 per day. Under these circumstances the board was compelled to make an order allowing in addition to the per diem pay of \$4, the actual and necessary expenses incurred. The total cost of appraising in the several counties has been as follows:

Missoula County.....	\$2,545 90
Gallatin County.....	1,570 81
Lewis and Clarke County.....	824 50
Cascade County.....	951 00

It is believed that the State Land Agent, taking to his assistance one man, a resident of the county in which the land lies, to be selected by him, and whose appointment should be confirmed by this board, could appraise the lands in much less time and at most not more than one-half the cost required by the present system. All selections were made from personal inspection by the State Land Agent and if he was authorized to make appraisements the same could be done at the time of selection and without extra cost to the State.

The work of the appraisers, however, appears to be fair and just to the State and reasonably satisfactory to the people. Our only complaint is the unreasonably excessive cost.

The amount of land thus far appraised and the value thereof is as follows:

In Missoula county, 38,400 acres, valued at \$327,922, an average value of \$8.54 per acre.

In Gallatin county, 48,120 acres, valued at \$493,480, an average of \$10.25 per acre.

In Lewis and Clarke county, 40,560 acres, valued at \$235,080, an average of \$5.55 per acre.

In Cascade county, 60,891 acres, valued at \$438,817, an average of \$7.20 per acre. Giving a total acreage in the four

counties of 187,971 and a total valuation of \$1,495,299, an average value per acre of the whole of \$7.88.

In connection with this matter of appraisement we desire to call attention to a petition received on the 31st day of August last, signed by a large number of the citizens of the county of Jefferson, and a reply thereto, as showing the views of the board at that time. The petition reads as follows:

*To the Honorable State Board of Land Commissioners, Helena, Montana:*

The undersigned citizens, residents and taxpayers of Jefferson county, Montana, would respectfully represent to your honorable body that the appraisers have long since been regularly appointed by the county commissioners of said county to appraise the school lands of the county of Jefferson. We therefore ask and demand that you furnish the necessary blanks and direct said appraisers to proceed forthwith and appraise said lands according to the 48th section of an Act to provide for their selection, location, appraisal, sale and leasing of State lands, approved March 6, 1891.

To this the following reply was made:

STATE OF MONTANA, OFFICE OF  
THE STATE BOARD OF LAND COMMISSIONERS, }  
(Copy.) HELENA, MONTANA, August 31, 1892. }

DEAR SIR:—We are in receipt of a petition signed by a large number of well known citizens of your county asking that the State lands in Jefferson county be forthwith appraised, etc., and in reply thereto desire to say that we are not in possession of such information as would lead us to believe that there is a necessity for the general appraisal of all the State lands in said county at this time. We will, however, be at any and all times ready and willing to comply with the provisions of Section 40 of the Act providing for the selection, location, appraisal sale and leasing of State lands. This section requires the land to be appraised “whenever ten householders of any school district shall petition the State board to expose to sale any portion or portions of said lands, describing the same.” The evident meaning of this section is, that any person or persons having in view a certain tract that they desire to purchase can have the same appraised and offered for sale by sending in a petition signed by ten householders of the school district in which the land lies. With this we will, as we have before said, be very glad to comply. Our experience in appraising land, under the present law, has proved it to be expensive in its execution and unsatisfactory in its results. The counties of Missoula, Gallatin and Lewis and Clarke have been appraised, and, while we have no reason to

believe that in any case the work was not done in the most expeditious and economical manner, yet the actual expense is far beyond what we believe it would be was the law so changed as to authorize a different system. This being so, the board decided to appraise no more lands until after the next session of the Legislative Assembly, except upon the filing of a petition as required by Section 40, the idea being to have the law so amended as to avoid the great expense now attached thereto and at the same time have the lands promptly and properly appraised.

Very respectfully,

(Signed.) JOS. K. TOOLE,  
President.

Copies sent to D. G. Warner and Thomas Joyes, Boulder, Montana.

#### SALE OF STATE LANDS.

On the receipt of the first report of the appraisers of the counties of Gallatin, Missoula and Lewis and Clarke (said reports, however, including but a part of the lands in each of the counties), a sale was ordered in accordance with the provisions of Section 20 of the Act of March 6, 1891. The first being held in Bozeman, Gallatin county, April 4, 1892: the second in Missoula, Missoula county, April 11, 1892: the third in Helena, Lewis and Clarke county, April 18, 1892. A second sale was afterward held in the counties of Gallatin and Lewis and Clarke.

The result of these sales and of those unsold at auction and afterward sold (see Section 29, Act March 6, 1891) will be found in the following table:



TABLE NO. 1.  
LIST OF LANDS SOLD—YEAR ENDING NOVEMBER 30, 1891.

Date.	To Whom Sold,	Part of Section.	Sec.	Tp.	R.	Acres	100th	Appraised Value.	Price per Acre.	Amount Paid.	Per Cent Paid.	To What Fund Credited.
1892.												
April	Jackson G. Lane.....	N. E. Qr.	16	3	4	1 1/2	160	\$2,050 00	\$13 00	\$24 00	30	School
"	William Lane.....	N. Half, S. E. Qr.	16	3	4	1 1/2	80	880 00	11 00	880 00	100	"
"	Charles W. Overstreet.....	S. Half, S. E. Qr.	16	3	4	1 1/2	80	880 00	11 00	261 00	30	"
"	Horace T. Kelly.....	N. E. Qr.	36	3	4	1 1/2	160	1,400 00	10 00	480 00	30	"
"	Susan M. Henry.....	E. Half, S. W. Qr. & N. E. Qr.	10	3	5	1 1/2	240	1,340 00	18 00	1,290 00	30	"
"	Matthae, Kent.....	W. Half, N. W. Qr.	16	3	5	1 1/2	80	1,440 00	18 00	432 00	30	"
"	George A. Krattner.....	S. W. Qr.	16	3	5	1 1/2	160	2,050 00	13 00	624 00	30	"
"	Peter A. Carlson.....	E. E. Qr.	16	3	5	1 1/2	160	2,400 00	15 00	720 00	30	"
"	Thomas Jones.....	E. E. Qr.	16	3	5	1 1/2	160	1,600 00	10 00	480 00	30	"
"	Benjamin F. Bissel.....	E. E. Qr.	36	2	4	3 1/2	160	2,400 00	10 50	930 00	30	"
"	Vincent B. McComb.....	N. W. Qr.	16	2	4	3 1/2	160	2,500 00	16 00	768 00	30	"
"	Charles Sates.....	N. W. Qr.	36	2	4	3 1/2	160	2,720 00	17 00	516 00	30	"
"	Edward H. Crouch.....	S. E. Qr.	36	2	4	3 1/2	160	2,240 00	14 00	672 00	30	"
"	John D. Hudline.....	W. Half, S. E. Qr. & E. Half N. W. Qr.	16	2	5	1 1/2	160	2,100 00	17 50	2 500 00	100	"
"	Allen Meyers.....	S. W. Qr.	36	2	5	1 1/2	160	2,500 00	16 00	768 00	30	"
"	Peter Conway.....	S. E. Qr.	16	20	N	20 W	160	2,880 00	18 00	504 00	30	"
"	Frederick W. Caplice.....	N. W. Qr.	16	27	N	20 W	160	800 00	10 00	240 00	30	"
"	Frederick W. Caplice.....	S. W. Qr.	16	27	N	20 W	160	2,240 00	11 00	672 00	30	"
"	Frederick W. Caplice.....	S. W. Qr.	16	27	N	20 W	160	2,240 00	11 00	672 00	30	"
"	Charles H. Baer.....	E. Half, S. E. Qr.	16	11	N	5 E	80	1,240 00	16 00	384 00	30	"
"	W. G. Prewitt.....	W. Half, S. E. Qr.	16	11	N	5 W	80	1,400 00	15 00	360 00	30	"
"	Marion A. Mitchell.....	E. Half, N. W. Qr.	16	13	N	4 W	80	400 00	5 00	240 00	30	"
"	Robert Barnes.....	E. Half, N. E. Qr.	36	11	N	3 W	80	1,200 00	15 00	360 00	30	"
"	Elizar Beach.....	N. W. Qr. S. E. Qr.	16	10	N	3 W	30	2,000 00	50 00	600 00	30	"
"	Robert Riddle.....	N. E. Qr. S. W. Qr.	36	1	1 1/2	1 1/2	160	400 00	10 00	120 00	30	"
"	Eleanor Patterson.....	S. W. Qr.	36	2	5	1 1/2	160	2,240 00	14 00	672 00	30	"
"	Marion Flaherty.....	N. W. Qr.	36	2	5	1 1/2	160	2,400 00	15 00	720 00	30	"

TABLE NO. 1—CONTINUED.

Date.	To Whom Sold.	Part of Section.	Sec	Tp.	R.	Acres	100th.	Appraised Value.	Price Per Acre.	Amount Paid.	Per Cent Paid.	To What Fund Credited.
June	Victor E. Cline.....	W. Half N. W. Qr.....	16	2 S	5 E	80	.....	\$800 00	\$10 00	\$240 00	30	School
Sept.	Thomas A. Grimes.....	Block 27.....	16	10 N	3 W	3	.....	300 00	100 00	00 00	30	"
"	E. W. Breck.....	Block 19 and 26.....	16	10 N	3 W	6	.....	600 00	100 00	180 00	30	"
"	George H. Pratt.....	Block 20.....	16	10 N	3 W	3	.....	300 00	100 00	00 00	30	"
"	Eugene W. Fisk.....	Block 13.....	16	10 N	3 W	3	.....	300 00	100 00	00 00	30	"
April	George R. Nichols.....	S. W. Qr.....	33	2 S	6 E	100	.....	1,700 00	11 00	5,280 00	30	Public Buildings.....
"	George R. Nichols.....	S. E. Qr.....	33	2 S	6 E	100	.....	2,080 00	13 00	624 00	30	"
"	Helen M. Nichols.....	N. E. Qr.....	33	2 S	6 E	100	.....	1,000 00	10 00	480 00	30	"
Nov.	George R. Nichols.....	N. W. Qr.....	4	3 S	6 E	100	.....	1,000 00	10 00	480 00	30	"
Sept.	H. P. Reed, Trustee.....	Block 15.....	4	10 N	3 W	3	.....	300 00	100 00	00 00	30	School
Oct.	Hackson G. Lane.....	N. E. Qr.....	16	3 S	4 E	100	.....	2,080 00	13 00	1,557 92	Final	"
	Total.....	.....	.....	.....	.....	.....	.....	.....	.....	\$22,673 92	.....	.....

In addition to these sales the following sale of lots have been made in the School addition to the City of Missoula, mention of which was made on page 12 of our report for 1891.

LIST OF LOTS SOLD IN SCHOOL ADDITION TO THE CITY OF MISSOULA FOR THE YEAR ENDING  
NOVEMBER 30, 1892.

Number of Receipt...	Date.	To Whom Sold.	Part of Section.	Amount Paid.	Per Cent. Paid.....
1	1891, Dec. 21	Charles M. Wilson.....	Lots 15 and 16, block 12.....	\$0 00	All.
2	21	James Hassett.....	Lot 17, block 13.....	15 00	30
3	21	John W. Hayes.....	Lots 1, 12 and 13, block 55.....	67 50	30
4	21	Martina P. Ives.....	Lot 7, block 56.....	37 50	30
5	21	Mrs. Minerva Courtney.....	Lot 13, block 14.....	90 00	30
6	21	Bernhard Oertle.....	Lot 11, block 27.....	15 00	30
7	21	John B. Wilde.....	Lot 14, block 14.....	300 00	All.
8	21	Cora E. Wellesse.....	Lot 15, block 15.....	60 00	30
9	21	Charles H. Davenport.....	Lots 19 and 20, block 43.....	105 00	30
10	21	Nathaniel Duggett.....	Lots 1 and 2, block 5.....	142 50	30
11	21	Henry Wiechers.....	Lot 9, block 15.....	100 00	33 1/3
12	21	Bridget M. Jackson.....	Lot 18, block 28.....	82 50	30
13	21	Elijah G. Dinnick.....	Lots 1 and 2, block 3.....	142 50	30
14	21	William H. Eastman.....	Lot 6, block 3.....	67 50	30
15	21	James Hassett.....	Lots 1 and 2, block 17.....	30 00	All.
16	21	John O. Paul.....	Lot 5, block 3.....	67 50	30
17	21	August Kares.....	Lot 5, block 15.....	90 00	30
18	21	Walter M. Hay.....	Lot 1, block 12.....	60 00	30
19	21	John H. McNamara.....	Lots 1 and 2, block 2.....	142 50	30
20	21	John McGilvray.....	Lots 14 and 15, block 27.....	250 00	All.
21	21	George Bildene.....	Lots 11 and 12, block 14.....	195 00	30
22	21	George M. Pingbarn.....	Lot 20, block 28.....	60 00	30
23	21	Valentine Bindour.....	Lot 4, block 3.....	67 50	30
24	21	George L. Elliott.....	Lot 17, block 28.....	82 50	30
25	21	Mary E. Birrus.....	Lot 26, block 57.....	145 00	All.
26	21	Gideon F. Ferguson.....	Lots 15 and 16, block 42.....	105 00	30
27	21	William Logan.....	Lot 17, block 41.....	30 00	30
28	21	Charles Myers.....	Lot 19, block 58.....	30 00	30
29	21	William Broderick.....	Lot 13, block 57.....	45 00	30
30	21	James E. Gillis.....	Lot 9, block 42.....	87 50	50

LIST OF LOTS SOLD IN SCHOOL ADDITION TO THE CITY OF MISSOULA FOR THE YEAR ENDING  
NOVEMBER 30, 1892. CONTINUED.

Number of Receipt...	Date.	To Whom Sold.	Part of Section.	Amount Paid.	Per Cent. Paid.....
31	1891 Dec.	Thomas F. Burke.....	Lot 11, block 6.....	60 00	30
32	21	Paul Cyr.....	Lots 11 and 12, block 11.....	100 00	50
33	21	Daniel P. Gillis.....	Lot 10, block 42.....	112 50	50
34	21	Crescentia Richli.....	Lot 8, block 3.....	67 50	30
35	21	Miss Emily Blanchard.....	Lots 1 and 15, block 57.....	112 50	50
36	21	Miss Emily Blanchard.....	Lot 17, block 57.....	13 50	30
37	21	John E. Kane.....	Lot 16, block 12.....	87 50	50
38	21	John J. Hoffman.....	Lot 20, block 40.....	37 50	30
39	21	Albert Dockstader.....	Lots 19 and 20, block 39.....	82 50	30
40	21	Dennis Cyr.....	Lot 17, block 41.....	30 00	30
41	21	Henry Deitz.....	Lots 11 and 12, block 29.....	142 50	30
42	21	Pauline Rohkramer.....	Lot 13, block 15.....	90 00	30
43	21	John Britt.....	Lot 19, block 14.....	90 00	30
44	21	Michael Whalen.....	Lots 3 and 4, block 43.....	60 00	30
45	21	Emmet Race.....	Lot 1, block 25.....	82 50	30
46	21	Willis P. Miller.....	Lot 10, block 15.....	97 50	30
47	21	Herman Voelker.....	Lots 6 and 7, block 12.....	105 00	30
48	21	Frank Wurtz.....	Lot 6, block 43.....	15 00	30
49	21	Newton F. Howell.....	Lots 11 and 12, block 11.....	112 50	30
50	21	Miss Emma Ranch.....	Lots 8 and 9, block 5.....	225 00	50
51	21	Alonzo B. Kellogg.....	Lot 20, block 10.....	65 00	30
52	21	William H. Virgin.....	Lots 19 and 20, block 11.....	105 00	30
53	21	Joseph A. Longley.....	Lot 12, block 7.....	75 00	30
54	21	John Donalds.....	Lot 18, block 15.....	300 00	30
55	21	Mrs. Mary Gleim.....	Lots 1, 6, 18, 19, blk. 57, and lots 8, 12, blk. 15.....	572 50	50
56	21	Samuel E. Campbell.....	Lot 11, block 55.....	30 00	30
57	21	Joseph Giroux.....	Lot 20, block 56.....	52 50	30
58	21	Hamlin H. Davenport.....	Lot 18, block 43.....	75 00	50
59	21	John W. Keith.....	Lot 20, block 11.....	60 00	30
60	21	Frank J. Brown.....	Lots 13 and 14, block 29.....	105 00	30
61	21	James E. Ferguson.....	Lots 7, 8, 9, 10 and 11, block 1.....	120 00	30
62	21	Daniel H. Ross.....	and lots 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10, block 13.....	750 00	30
63	21	Joseph W. McGregor.....	Lot 17, block 15.....	90 00	30
64	21	Albert Hollenbach.....	Lot 19, block 15.....	60 00	30
65	21	Morris Schlossburg.....	Lots 12 and 13, block 27.....	75 00	30

66	21	Patrick H. Cone.....	Lot 19, block 15.....	90 00	30
67	21	John Schander.....	Lots 1 and 2, block 41.....	67 50	30
68	21	John M. Herzog.....	Lot 18, block 56.....	37 50	30
69	21	Aggie Kirk.....	Lot 4, block 41.....	30 00	30
70	21	Trustees of School District No. 3, Missoula County.....	All of block 4.....	300 00	All.
71	21	John J. Hoffman.....	Lot 19, block 40.....	30 00	30
72	21	Richard Malone.....	Lot 20, block 41.....	105 00	30
73	21	Oliver P. Jackson and Harvey D. Fisher.....	Lots 1 and 2, block 25.....	172 50	30
74	21	Buel Hyde.....	Lots 2 and 3, block 12.....	105 00	30
75	21	Hamlin H. Davenport.....	Lot 11 block 42.....	112 50	50
1892.					
76	Jan. 5	Ralph P. Simpson.....	Lots 9 and 10, block 59.....	75 00	30
77	Jan. 5	Joseph Boujie.....	Lots 19 and 20, block 44.....	67 50	30
78	Jan. 5	Corà E. Welssé.....	Lot 14, block 15.....	150 00	50
79	Feb. 12	Edgar H. Phillips.....	Lot 3, block 3.....	75 00	33 1/3
80	21	Elizabeth A. Bray.....	Lot 13, block 43.....	15 00	30
81	21	George Pringle.....	Lot 1, block 10.....	60 00	30
82	MeCh. 2	W. H. Dakin.....	Lot 19, block 11.....	60 00	30
83	2	James J. Bassett.....	Lot 15, block 43.....	45 00	30
84	5	Peter Lofnes.....	Lot 11, block 26.....	15 00	30
85	7	T. A. Gantner.....	Lot 13, block 42.....	52 50	30
86	5	Daniel K. Ferris.....	Lots 19 and 20, block 41.....	117 50	50
87	16	Philip Bachman.....	Lots 11 and 12, block 40.....	67 50	30
88	17	Arthur Quinn.....	Lot 17, block 55.....	30 00	30
89	01	Philip E. Allaway.....	Lot 9, block 43.....	15 00	30
90	24	Patrick J. Murphy.....	Lot 18, block 55.....	30 00	30
91	30	Frank H. Egelin.....	Lot 14, block 41.....	30 00	30
92	30	Frank H. Henry.....	Lot 4, block 43.....	60 00	30
93	30	Paul Rasmussen.....	Lot 18, block 11.....	60 00	30
94	30	Mrs. Rosa Longly.....	Lot 10, block 12.....	52 50	30
95	30	Charles Mack.....	Lot 7, block 5.....	52 50	30
96	June 6	William Logan.....	Lot 18, block 30.....	75 00	30
97	6	Annie Muzzie.....	Lots 6 and 7, block 29.....	37 50	30
98	18	George W. Westby.....	Lot 17, block 29.....	400 00	All.
99	47	W. A. Houtchens.....	Lot 11, block 15.....	60 00	30
100	22	Aggie Kirk.....	Lot 4, block 41.....	105 00	30
101	31	.....	.....	71 90	Final
102		Total.....	.....	\$10,288 40	

NOTE For forms of blanks used in sale of lands see Appendix numbered 1, 2, 3, 4 and 5

## LEASING OF STATE LANDS.

Section 39 of the law governing the proceedings of this board provides that "the State Board of Land Commissioners shall have the power to lease the lands of the State at a rate not less than five per cent. of the appraised value." This has proved to be a most excellent provision, and our endeavor of late has been to lease rather than sell the lands. The particular advantages derived from this system being, first, that the State retains the ownership. Any increase in value would therefore accrue to the State. Second, the proceeds of the leasing of the lands are available for such purpose pertaining to the fund to which they belong as the Legislative Assembly may direct, whereas, as nothing but the interest on moneys received from sales can be expended in support of the several institutions (except public buildings), it is, of course, necessary to first invest the money before income can be derived from it, and this has been found to be a matter of considerable difficulty. Reference will likely be made to this matter in the report of the State Treasurer. See also investment of school fund. The following is a list of lands leased:

TABLE NO. 2.

LIST OF LANDS LEASED - YEAR ENDING NOVEMBER 30, 1892.

Number	Date.	To Whom Leased.	Part of Section.	Section.	Township	Range	Acres	Months	Date of Expiration of Lease.	Annual Rental.	To What DATE PAID.			To What Fund and Credited.	County.
											Month.	Day	Year		
1	1892 April	Samuel A. Bostwick	S. W. Qr. and W. Half S. E. Qr.	36	1 S	5 E	240	.....	April 3, 1897	\$580 00	April	4	1893	School	Gallatin
2	4	William H. Tracy	E. Half N. E. Qr. & W. Half S. E. Qr.	36	1 S	5 E	160	.....	April 3, 1897	140 00	April	4	1893	School	Gallatin
3	4	Horace T. Kelly	N. W. Qr. & E. Qr.	36	1 S	3 E	160	.....	April 3, 1897	80 00	April	4	1893	School	Gallatin
4	6	John Kolbe	W. Half N. W. Qr. & W. Qr.	16	1 S	3 E	80	.....	April 5, 1897	24 00	April	6	1893	School	Gallatin
5	11	William Penny	N. W. Qr. & S. E. Qr. & S. W. Qr. & N. E. Qr.	19	28 N	20 W	240	.....	April 10, 1897	42 00	April	11	1893	University	Missoula
6	6	Perry Linney	S. W. Qr.	16	2 S	5 E	160	.....	April 5, 1897	80 00	April	6	1893	School	Gallatin
7	22	William Suley	N. W. Qr. & S. W. Qr.	27	2 S	6 E	320	.....	April 21, 1897	176 00	April	22	1893	Normal School	Gallatin
8	22	Alpheus Bigelow	S. E. Qr. & S. W. Qr.	27	2 S	6 E	160	.....	April 21, 1897	88 00	April	22	1893	Normal School	Gallatin
9	22	William Harper	N. E. Qr.	27	2 S	3 E	160	.....	April 21, 1897	160 00	April	22	1893	Normal School	Gallatin
10	16	Fred. Vogel	W. Half S. W. Qr.	16	1 S	3 E	80	.....	April 15, 1897	24 00	April	16	1893	School	Gallatin
11	16	George C. Eckley	S. Half N. E. Qr.	16	1 S	3 E	80	.....	April 15, 1897	24 00	April	16	1893	School	Gallatin
12	26	J. M. Smith	N. W. Qr.	16	28 N	20 W	160	.....	April 25, 1897	128 00	April	26	1893	University	Missoula
13	28	M. M. Churchill	W. Half	4	28 N	20 W	320	.....	April 25, 1897	320 00	April	28	1893	University	Missoula
14	28	J. L. & Gen. M. Eckelberry	N. W. Qr. & S. W. Qr.	5	28 N	20 W	160	.....	April 25, 1897	144 00	April	28	1893	University	Missoula
15	29	Louis Fellher	N. W. Qr. & S. W. Qr.	9	28 N	20 W	320	.....	April 25, 1897	336 00	April	29	1893	University	Missoula
16	May	Gustave Heller	N. E. Qr.	8	28 N	20 W	160	.....	April 25, 1897	160 00	May	11	1893	University	Missoula
17	11	Patrick Cassidy	S. W. Qr.	16	11 N	4 W	160	.....	May 10, 1897	40 00	May	11	1893	School	Lewis and Clarke
18	2	Rasmus O. Wallan	N. E. Qr.	16	49 N	22 W	160	.....	May 10, 1897	18 00	May	2	1893	School	Missoula
19	16	Robert Riddle	W. Half S. W. Qr.	36	1 S	4 E	80	.....	May 15, 1897	12 00	May	16	1893	School	Gallatin
20	16	Manhattan Malting Co.	All of	10	1 N	3 E	640	.....	May 15, 1897	400 00	May	16	1893	School	Gallatin
21	16	Daniel Brion	N. W. Qr.	33	2 S	6 E	160	.....	May 15, 1897	120 00	May	16	1893	Pub. Buildings	Gallatin
22	April	James N. Stephens	N. W. Qr.	16	28 N	20 W	160	.....	April 15, 1897	164 00	April	16	1893	School	Missoula
23	May	William P. Border	N. E. Qr. & N. W. Qr.	16	1 S	5 E	320	.....	May 17, 1897	56 00	May	18	1893	School	Gallatin
24	7	B. A. Smith	N. W. Qr.	7	28 N	20 W	147	83	May 6, 1897	110 87	May	7	1893	University	Missoula
25	6	George E. Davis	S. Half N. E. Qr.	16	28 N	20 W	160	.....	May 5, 1897	56 00	May	6	1893	School	Missoula
26	20	George E. Davis	N. W. Qr.	36	1 S	5 E	160	.....	May 25, 1897	144 00	May	20	1893	School	Gallatin
27	23	John D. Ross	N. W. Qr.	28	28 N	20 W	128	00	May 22, 1897	128 00	May	23	1893	University	Missoula
28	5	Leroy Johnston	S. E. Qr.	5	28 N	20 W	160	.....	May 4, 1897	160 00	May	5	1893	University	Missoula
29	23	Donald Buchanan	S. E. Qr.	17	28 N	20 W	160	.....	May 22, 1897	120 00	May	23	1893	University	Missoula

TABLE NO. 2—CONTINUED.

Number .....	Date.	To Whom Leased.	Part of Section.	Section .....	Township.....	Range .....	Acres.....	Tooth .....	Date of Expiration of Lease.	Annual Rental.	To What DATE PAID.			To What fund Credited.	County.
											Month..	Day ...	Year...		
30	June 1 <sup>1892</sup>	Margaret Nicholas	All of.....	16	17	5 W	610	.....	May 31, 1897	\$45 00	June	1	1893	School	Lewis and Clarke
31	May 6	F. W. Plummer	S. Half N. E. Qr.	16	25	20 W	80	.....	May 5, 1897	56 00	May	6	1893	School	Missoula
32	May 19	Reuben Johnston	S. W. Qr.	5	28	20 W	160	.....	May 18, 1897	141 00	May	19	1893	University	Missoula
33	May 27	L. A. Luce	N. E. Qr.	16	1	7 E	100	.....	May 26, 1897	40 00	May	27	1893	School	Gallatin
34	May 24	Addie Harwood	N. E. Qr.	3	25	20 W	100	91	May 23, 1897	44 82	May	24	1893	University	Missoula
35	May 20	James Young	N. E. Qr.	17	28	20 W	160	.....	May 10, 1897	128 00	May	20	1893	University	Missoula
36	May 25	Benjamin Reed	N. W. Qr.	5	28	20 W	147	67	May 24, 1897	163 37	May	25	1893	University	Missoula
37	June 13	Albert B. Sheldon	N. E. Qr.	5	28	20 W	160	.....	May 8, 1897	168 00	May	9	1893	School	Missoula
38	June 13	Edmond LeChapelle	All of.....	16	18	5 W	610	.....	June 12, 1897	58 00	June	13	1893	School	Lewis and Clarke
39	May 19	Hugh F. Sinclair	S. W. Qr.	17	28	20 W	160	.....	May 18, 1897	120 00	May	19	1893	University	Missoula
40	June 2	Humphrey W. Hunting	S. W. Qr.	16	29	20 W	160	.....	June 1, 1897	99 00	June	2	1893	School	Missoula
41	May 3	Robert H. Bohart	N. W. Qr.	3	28	20 W	161	21	May 30, 1897	115 08	May	31	1893	University	Missoula
42	May 23	John H. Beck	N. W. Qr.	16	1	5 E	100	.....	May 22, 1897	24 00	May	23	1893	School	Gallatin
43	May 31	Samuel A. Harper	N. E. Qr.	36	1	6 E	160	.....	May 30, 1897	28 00	May	31	1893	School	Gallatin
44	June 7	W. A. Preston	S. W. Qr.	7	28	20 W	117	67	May 30, 1897	110 75	May	14	1893	University	Missoula
45	June 14	W. Earl Walker	N. E. Qr.	16	10	2 W	610	22	June 13, 1897	137 05	June	14	1893	University	Missoula
46	June 21	Hervey Barbour, Trustee	All of.....	11	10	2 W	610	.....	June 20, 1897	160 00	June	21	1893	School	Lewis and Clarke
47	June 21	Hervey Barbour, Trustee	All of.....	14	10	2 W	610	.....	June 20, 1897	180 00	June	21	1893	University	Lewis and Clarke
48	July 25	Robert S. Laughlin	S. E. Qr.	15	10	2 W	610	.....	June 24, 1897	144 00	June	25	1893	University	Missoula
49	July 7	Jacob P. McLain	All of.....	3	28	20 W	160	.....	July 6, 1897	78 00	July	7	1893	School	Lewis and Clarke
50	May 23	Frank Phipps	S. E. Qr.	16	17	6 W	100	.....	May 22, 1897	104 00	May	23	1893	University	Missoula
51	June 5	Henry Ramsdell	N. E. Qr.	9	28	20 W	100	.....	June 4, 1897	176 00	June	5	1893	University	Missoula
52	July 8	George Kirk	S. W. Qr.	18	27	20 W	152	34	July 7, 1897	70 15	July	7	1893	University	Missoula
53	June 11	James Fine	N. W. Qr.	18	28	20 W	160	.....	July 10, 1897	120 00	June	11	1893	University	Missoula
54	June 22	Smith Henderson	N. E. Qr.	18	28	20 W	160	.....	May 31, 1897	140 00	June	22	1893	University	Missoula
55	July 25	W. C. Gillette	All of.....	36	18	6 W	610	.....	July 24, 1897	54 00	July	25	1893	School	Lewis and Clarke
56	July 25	W. C. Gillette	N. Half.....	36	17	6 W	330	.....	July 24, 1897	28 00	July	25	1893	School	Lewis and Clarke
57	July 25	J. T. Hargrove and	S. Half.....	36	17	6 W	320	.....	July 24, 1897	28 00	July	25	1893	School	Lewis and Clarke
58	July 28	Jacob C. Fev	All of.....	16	18	6 W	610	.....	July 27, 1897	144 00	July	28	1893	School	Lewis and Clarke
59	July 30	William Kisselbaugh	S. E. Qr.	36	15	2 W	100	.....	July 29, 1897	32 00	July	30	1893	School	Lewis and Clarke
60	Aug. 18	Joseph P. Woolman	All of.....	16	20	4 W	610	.....	Aug. 17, 1897	104 00	Aug.	18	1893	School	Lewis and Clarke
			S. E. Qr.	36	20	2 W	160	.....							





TABLE NO. 2—CONTINUED.

Number	Date.	To Whom Leased.	Part of Section.	Section.	Township.	Range	Acres	tooth	Date of Expiration of Lease.	Annual Rental.	To What PAID.			To What Fund Credited.	County.
											Month.	Day	Year		
96	1892	4 John G. Nelson	N. E. Qr.	28	2 S	6 E	160	160	Nov. 3, 1897	112 00	Nov.	4	1893	Normal School	Gallatin.
97	Oct.	5 George Meeser.	W. Qr.	36	8 N	21 W	100	100	Oct. 14, 1897	80 00	Oct.	15	1893	School	Missoula.
98	Nov.	3 Cyrus M. Bryant.	N. W. Qr.	17	27 N	20 W	160	160	Nov. 3, 1897	\$40 00	Nov.	3	1893	University	Missoula.
99		7 W. H. Bryant.	S. E. Qr.	17	27 N	20 W	160	160	Nov. 6, 1897	64 00	Nov.	7	1893	University	Missoula.
100	Oct.	15 W. P. Knowlton	N. Half N. E. Qr.	10	2 N	5 E	80	80	Oct. 14, 1897	64 00	Oct.	15	1893	School	Gallatin.
101		27 Frank Lewellyn	S. E. Qr.	36	1 N	5 E	160	160	Oct. 26, 1897	80 00	Oct.	27	1893	School	Gallatin.
102	May	18 Malcolm McCormick	S. E. Qr.	7	28 N	20 W	160	160	May 17, 1897	120 00	May	18	1893	University	Missoula.
103		25 William Bellefleur.	S. E. Qr.	16	28 N	20 W	160	160	May 24, 1897	88 00	May	25	1893	School	Missoula.
104	Sept.	26 Charles AGENCY	W. Half N. E. Qr. & E. Half S. E. Qr. & N. E. Qr. S. W. Qr.	36	1 N	3 E	160	160	Sept 25 1897	80 00	Sept.	26	1893	School	Gallatin.
105	Oct.	15 James M. Higgins.	N. E. Qr. S. W. Qr.	16	8 N	20 W	120	120	Oct. 14 1897	82 00	Oct.	15	1893	School	Missoula.
106		15 John L. Jones.	W. Half N. W. Qr.	16	5 N	20 W	80	80	Oct. 14, 1897	60 00	Oct.	15	1893	School	Missoula.
107		15 John F. Delancy.	N. W. Qr.	30	18 N	20 W	160	160	Oct. 14, 1897	20 00	Oct.	15	1893	School	Missoula.
108		20 Edward R. Grant.	S. E. Qr.	4	28 N	20 W	160	160	Oct. 19, 1897	112 00	Oct.	20	1893	University	Missoula.
109		24 David N. Williams	S. E. Qr.	16	1 N	5 E	160	160	Oct. 23, 1897	40 00	Oct.	24	1893	School	Gallatin.
110		25 Henry Fine.	S. E. Qr.	17	27 N	20 W	160	160	Oct. 23, 1897	64 00	Oct.	25	1893	University	Missoula.
111		7 Knute Odegard.	S. W. Qr.	3	29 N	20 W	160	160	Nov. 6, 1897	128 00	Nov.	7	1893	University	Missoula.
112	Nov.	6 James H. Morrison.	S. W. Qr.	36	29 N	20 W	160	160	Nov. 8, 1897	88 00	Nov.	9	1893	School	Missoula.
113		9 William J. Wood.	N. W. Qr.	16	7 N	4 E	160	160	Nov. 8, 1897	48 00	Nov.	9	1893	School	Missoula.
114		10 Thomas Gibson.	N. W. Qr.	16	1 N	4 E	160	160	Nov. 9, 1897	40 00	Nov.	10	1893	School	Gallatin.
											Total				
															\$11 667 96

LIST OF LEASES IN SCHOOL ADDITION TO CITY OF MISSOULA, YEAR ENDING NOVEMBER 30, 1892.

Number..	Date.	To Whom Leased.	Part of Section.	Date of Expiration of Lease.	Annual Rental.	To What DATE PAID.			To What Fund Credited.
						Month.	Day.	Year.	
1	March 10, 1892	J. A. Marston	Lot 12, block 44	March 9, 1894	\$ 7 00	March	10	1893	School
2	March 17, 1892	Arthur Quinn	Lot 10, block 55	March 16, 1891	7 00	March	17	1893	School
3	April 5, 1892	John Woodard	Lot 15, block 11	April 4, 1894	7 00	April	5	1893	School
4	April 20, 1892	George O. Graham	Lot 1, block 14	April 19, 1891	8 75	April	20	1893	School
5	May 23, 1892	C. M. Wilson	Lot 5, block 12	May 22, 1894	12 25	May	23	1893	School
6	May 27, 1892	Henry Jette	Lot 11, block 30	May 26, 1894	10 50	May	27	1893	School
7	June 4, 1892	John W. Holt	Lot 14, block 11	June 3, 1894	11 25	June	4	1893	School
8	October 15, 1892	R. A. Pelky	Lot 1, block 42	October 14, 1894	15 75	October	15	1893	School
9	October 15, 1892	O. C. Clark	Lot 14, block 30	October 14, 1894	8 75	October	15	1893	School
				Total.....	\$88 25				

NOTE.—For forms of blanks used in leasing of State lands, see Appendix numbered 6, 7 and 8.

## INDEMNITY SCHOOL LANDS.

In our report for 1891 we called attention to the amendments to Section 2275, Revised Statutes of the United States. The third clause of the instruction issued by the Commissioner of the General Land Office and approved by the Secretary of the Interior, addressed to registers and receivers of the United States land offices, regarding the cases where indemnity for lost school lands would be allowed, reads as follows:

“3. Where Sections 16 or 36 are fractional in quantity or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.” Our understanding of what was meant by a fractional township was, that it was a township partly surveyed, so that whenever Sections 16 or 36 were wholly or partly wanting by reason of such partial survey the State was entitled to indemnity therefor. With this in view lists were prepared covering the losses from this cause in the Missoula district and filed in the land office at Missoula, anticipating, of course, their approval by the land officers. But, instead are informed, under date of December 29, 1892, that the register and receiver do not agree with us as to the proper definition of a “fractional township,” and that the lists were rejected, subject, of course, to our right of appeal.

An appeal was promptly filed in the case.

On the 29th of March, 1892, the commissioner rendered a decision in the case affirming the decision of the register and receiver. From this the State again appealed.

This appeal is still pending in the office of the Secretary of the Interior. A decision is expected at an early date, and in view of the great importance of it and the great interest involved, it was decided to wait until it was had before making further selection of indemnity lands. It is believed that several hundred thousand acres of land are involved.

## STATE SELECTIONS.

The grants of land made by the Congress of the United States to the State of Montana as provided in the Act of February 22, 1889, entitled “An Act to provide for the division of Dakota into two states, and to enable the people of North Dakota, South Dakota, Montana and Washington to form constitutions and state governments and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states,” are as follows:

	ACRES.
For a School of Mines.....	100,000
State Normal School.....	100,000
Agricultural College.....	140,000
State Reform School.....	50,000
Deaf and Dumb Asylum.....	50,000
Public Buildings.....	182,000
A total of.....	622,000

We estimate that the State will also be entitled to indemnity for lands lost by settlement prior to survey to the extent of about 40,000 acres, but if our view of what constitutes a fractional township should prevail, this will be increased to probably ten times that amount. The selection of such an amount of land was at once found to be a task of no small magnitude. Two important matters confront us. The first, to find enough land to satisfy the grants, and the second, to find land that shall have some value, or that will produce some revenue when found. The first could of course be overcome, but there would be but little object in filing selections for lands that would not, as we have said, produce something when selected. In our report for 1891, in referring to this matter, we said:

“It having become apparent to the board from the reports of the State Land Agent and from other sources that it would be impossible to find suitable vacant surveyed lands in sufficient quantities to satisfy the various grants to the State, the State Land Agent was directed to make an examination of the unsurveyed lands in the Flathead valley and vicinity, and report to the board the result of his investigations.”

The result was that twenty-two townships of unsurveyed land were selected and their survey applied for. These townships are situated in the northwestern portion of the State and are valuable chiefly for their timber. The advent of the Great Northern Railway, however, has brought an influx of settlers into that part of the State, and they also were attracted by the valuable timber there and began to settle in these townships with a view to securing title thereto. This soon became a matter of such importance that it was felt to be the duty of the board to take some action to protect the interests of the State. With this in view the Governor of the State and the president of the board went to Washington and after interviews with the Commissioner of the General Land Office and the Secretary of the Interior, an order reading as follows was issued:

DEPARTMENT OF THE INTERIOR, }  
WASHINGTON, Jan. 14, 1892. }

(Copy.)

WHEREAS, By the provisions of an Act entitled "An Act to provide for the division of Dakota into two states and to enable the people of North and South Dakota, Montana and Washington to form constitutions and State governments, and to be admitted into the Union on equal footing with the original states, and to make donations of public lands to such states," approved February 22, 1889, 35 Statutes, 676, there was granted to the State of Montana in addition to Sections 16 and 36, in each township, a large amount of unappropriated public lands for capitol buildings, educational and other purposes, aggregating some 622, acres; that no part of said grant has been satisfied except that for university purposes, which had been selected prior to the admission of said State and ratified by said act of admission.

WHEREAS, The Act of Congress of March 3, 1891, 26 Statutes, 971, making an appropriation of money for the survey of public lands for the current fiscal year, provides as follows, viz:

*Provided*, That in expending this appropriation, preference shall be given in favor of surveying townships occupied in whole or in part by actual settlers, and the lands granted to the states by the Act approved February 22, 1889, and the Acts approved July 3 and July 10, 1890, and other surveys shall be confined to lands adapted to agriculture and lines of reservations.

WHEREAS, The proper authorities, finding no available unappropriated surveyed lands out of which to satisfy said several grants, have heretofore made application to Hon. Geo. O. Eaton, Surveyor General of Montana, for the survey of certain unsurveyed and unappropriated public lands in said State, to satisfy the same, comprehending the following townships, to be ascertained and determined by running a line of survey according to law, viz:

- Township 31 N., of Range 23 W.
- Township 32 N., of Range 23 W.
- Township 33 N., of Range 23 W.
- Township 34 N., of Range 23 W.
- Township 31 N., of Range 24 W.
- Township 33 N., of Range 24 W. And,

WHEREAS, The State of Montana, represented by J. K. Toole, Governor; L. Rotwitt, Secretary of State; H. J. Haskell, Attorney General, and John Gannon, Superintendent of Public Instruction, comprising the State Board of Land Commissioners, have applied to this department for proper action to be taken to secure the State the preference right to appropriate the lands so applied for by formally selecting and making their selections of record in proper manner, without prejudice to the rights of actual settlers now settled upon any of said lands.

In consideration of the premises, and holding that the State is justly entitled under said laws to the preference right of selection as claimed by it, it is hereby

ORDERED, That the public lands lying in the townships above described applied for by the State of Montana, as aforesaid, shall be held as reserved under the act referred to, for the satisfaction of the grants made to the State of Montana by the Act of February 22, 1889, aforesaid, from any adverse appropriation, by settlement or otherwise, from the date of the first publication of this notice until the expiration of thirty days from the date of filing the township plats in the local office, after notice pursuant to the circular of October 31, 1885, 4, L. D., 202, in order to afford the State of Montana reasonable time in which to perfect and make its selections of record in the appropriate district land office: *Provided*, That this order shall be published for a period of thirty days in some newspaper of general circulation in the vicinity of the lands, and for the same period in some newspaper of general circulation published at the capital of the State of Montana. the publication to be made by the register and receiver of the proper district land office, under the direction of the Commissioner of the General Land Office, and the expense thereof be paid out of the appropriation for contingent expenses of district land offices, and provided that no claim existing on any of said lands by actual settlement at the date of the first publication of such notice shall be in any wise prejudiced by this order.

(Signed) J. W. NOBLE,  
Secretary.

By this it will be seen that the preference right of the State was secured to but six townships, it being held, as we understand, that other parties had made applications for the survey of the remaining townships and that in consequence thereof the State was not entitled to an order of withdrawal from settlement and entry of them. The townships to which the preference right was given had been settled upon to a small extent, but it is expected that three-fourths of the area will become the property of the State, and that portions of the others will also be subject to selection.

The following selections have been filed and approved by the local land officers:

GRANT FOR PUBLIC BUILDINGS.

	Acres.
Bozeman Land District.....	22,278.69
Helena Land District.....	21,794.67
Total.....	44,073.36

## GRANT FOR AGRICULTURAL COLLEGE.

Helena Land District.....	18,014.26
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## GRANT FOR SCHOOL OF MINES.

Bozeman District.....	10,461.29
Helena District.....	15,699.90
Total.....	<u>26,131.19</u>

## GRANT FOR STATE REFORM SCHOOL.

Bozeman District.....	6,452.67
Helena District.....	8,813.37
Total.....	<u>15,266.04</u>

## GRANT FOR DEAF AND DUMB ASYLUM.

Bozeman District.....	640.00
Helena District.....	7,761.38
Total.....	<u>8,401.38</u>

## GRANT FOR STATE NORMAL SCHOOLS.

Bozeman District.....	7,031.90
Helena District.....	15,669.37
Total.....	<u>22,701.27</u>

In addition to the above a list was filed for six hundred and forty acres in the abandoned Fort Ellis reservation for a permanent militia camp ground as provided for in Section 2 of the act providing for the disposal of said reservation.

Excluding this section, which is not a permanent grant, the list shows a total selection of 128,823.51 acres, leaving less than 500,000 yet to be selected. Probably 150,000 acres of this will be found in the timber lands in the Flathead valley; the balance will necessarily have to be taken from the vacant lands wherever they may be found. It is likely that the most of it can be secured during the coming year.

In addition to the selections hereinbefore mentioned, we have filed in the land office at Missoula List No. 1, grant for School of Mines, 5,919.34 acres, List No. 1, grant for State Normal Schools, 6,359.93 acres, List No. 1, grant for Deaf and Dumb Asylum, 5,679.61 acres.

These lists were rejected by the United States land officers at Missoula on the ground that the lands embraced therein were a part of the "fifteen townships set apart for the exclusive use of



the Flathead Indians," as provided for in the Act of June 5, 1872, and in accordance with the terms of a treaty made with said Indians on the 16th day of July, 1855.

While there is some foundation for the claims of the land officers, we are not satisfied that they are right in rejecting the selections, and in order that the interests of the State should be protected to the fullest extent, we have appealed to the Commissioner of the General Land Office. Should the decision be affirmed, we anticipate no difficulty in securing such legislation from Congress as will confirm the right of the State to the said lands.

PATENTS TO UNIVERSITY LANDS.

On the 18th of March, 1889, the President of the United States approved the list of university selections made for the Territory of Montana under the provisions of the Act of February 18, 1881, granting to the territories of Dakota, Montana, Arizona, Idaho and Wyoming seventy-two sections of land for university purposes.

The question as to whether the approval of these lists of selections by the President of the United States conveyed the legal title to said land having arisen, application was made to the Secretary of the Interior for his judgment thereon. On the 6th of February the following decision was rendered and transmitted by the commissioner under date of February 10, 1892, with a letter reading as follows:

DEPARTMENT OF THE INTERIOR, }  
GENERAL LAND OFFICE, }  
WASHINGTON, D. C., Feb. 10, 1892. }

(Copy.)  
*His Excellency, the Governor of Montana, Helena, Montana:*

SIR:—The question whether the certification by this office on April 8, 1889, to the Governor of Montana of the list of university selections made for said State, and approved by the president on March 18, 1889, conveyed the legal title to the lands embraced therein, which was called up by you during a recent personal interview, having, on the 16th ultimo, been submitted to the Honorable Secretary of the Interior for an official ruling thereon, I have the honor to advise you that, on the 6th inst., the Honorable Secretary rendered a decision, wherein he holds that the certification of the list of selections by this office to the Governor of Montana, was sufficient evidence of the title of the State to such land, without further action on the part of the government.

A copy of the said decision is herewith enclosed for your information.

Very respectfully,

(Signed) THOMAS H. CARTER,  
Commissioner.

(Copy.)

DEPARTMENT OF THE INTERIOR, {  
WASHINGTON, Feb. 6, 1892. }

*The Commissioner of the General Land Office:*

SIR:—I am in receipt of your communication of January 16, 1892, transmitting a list of selections made for the Territory of Montana, under the provisions of the Act of February 18, 1881 (21 Stat., 326), granting to the territories of Dakota, Montana, Arizona, Idaho and Wyoming seventy-two sections of land for university purposes. Said list of selections was approved by the president March 18, 1889, and the lands embraced in said list were withdrawn for the purposes indicated in said grant.

You submit the question, as to whether the certification of said list of selections by your office, on April 8, 1889, to the Governor of Montana, conveyed the legal title to said land.

The Act of February 18, 1881, granted to each of the territories named therein seventy-two sections of unappropriated public lands, for the use and support of a university in each of said territories when they shall be admitted as states into the Union, to be selected and withdrawn from sale and located under the direction of the Secretary of the Interior and with the approval of the president.

The lands embraced in list No. 1, transmitted with your letter, were selected by a duly authorized agent of the department, and withdrawn from sale and located, with the approval of the president, on March 18, 1889, in full compliance with the provisions of the Act of February 18, 1881. No further action was necessary to perfect and complete the title to these lands under the grant, except the admission of the territory as a state in the Union, and the selection and location of said tracts in part satisfaction of the grant to said territory being intact November 8, 1889, when the admission of said State into the Union became complete under the Enabling Act of February 22, 1889 (25 Stat., 676), the title of the State to said lands became complete, and related back to the date of the selection and location of the same, and the certification of said list by your office to the Governor of Montana was sufficient evidence of the title of the State to such land, without further action on the part of the government.

Besides, the 14th section of the Act of February 22, 1889, provides that the lands granted to Dakota and Montana by the Act of February 18, 1881, "are hereby vested in the states of South Dakota, North Dakota and Montana, respectively, if such states are admitted into the Union, as provided by this Act, to the extent of the full quantity of seventy-two sections to each of said states, and any portion of said lands that may not have

been selected by either of said territories of Dakota or Montana, may be selected by the respective states aforesaid."

It is apparent that it was intended that the absolute title to the specific tracts selected and located, in compliance with the requirements of the grant of February 18, 1881, should, upon its admission, immediately vest in the state, as it required no further action on the part of the government to give the grant precision as to those tracts, and as to any portion of said lands that had not been selected, provision was made for the selection of such lands by the state authorities.

I see no reason for any other action of the department upon said list, there being no statutory provision requiring the issuance of patent, and said list is therefore herewith returned.

Very respectfully,

(Signed) JOHN W. NOBLE,  
Secretary (G. C.)

#### INVESTMENT OF SCHOOL FUNDS.

The board has not felt authorized under existing laws to go into the market and purchase bonds at a premium. The result is that only about \$21,000 of the school fund has been invested. A large amount of money, approximating \$40,000, is being carried without yielding to the State a cent of interest, and this is especially damaging in view of the fact that Congress has prevented us from using any part of the proceeds of the sale of lands granted for educational purposes except the interest on the same. We think that express authority should be given to the State board to purchase in the open market at the best price, and that in addition authority should be given to loan upon real estate an amount equal to one-third of the value of the same, based upon an appraisal by the State Land Agent and approved by the board. It appears to us that this or some other feasible method must be employed to secure a revenue from the sale of our school lands, otherwise the policy of selling must be abandoned and a system of leasing exclusively inaugurated. The latter has its advantages as well as disadvantages.

#### AMENDMENTS TO THE PRESENT LAW.

A considerable degree of uncertainty exists as to the proper mode of disposing of the improvements on lands for which application to lease has been made by parties other than the owners thereof. Section 50 of the act providing for "the selection, location, appraisal sale and leasing of State lands," provides that "all occupants or settlers having improvements on grazing lands, and who do not wish to lease the same, shall have the privilege of disposing of or recovering such improvements at any time with-

in ninety (90) days from date of the lease." In the absence of any particular direction as to what should be done in the case of lands other than grazing lands, the board have decided that the same rule should apply in both cases. It would, however, be better that some direct legislation should be had regarding the matter. Direct and positive legislation should also be had regarding the rights of lessees as to renewal of leases, right of purchase and disposal of improvements, at the expiration of the first or present lease. Much correspondence had been had regarding these matters, and while it is true that some years will pass before the question actually arises, yet it is important that the necessary legislation should be had at once in order that both the board and the people may know what their rights are and what the law is. As the matter now stands the lessees naturally hesitate in placing valuable improvements on the leased lands without a positive understanding as to what is to become of them at the expiration of the lease.

A penalty should also be provided in cases where persons continue in the use and possession of State lands without applying for a lease of the same, or after being notified that the lands have been appraised and that the State is prepared to lease them.

The Constitution provides for the sale of timber on State lands, but there is nothing in the present law as to the manner in which this provision is to be carried out. Some legislation should be had regarding it.

#### REGISTER OF STATE LAND OFFICE.

The experience of the past year has convinced us that the office of Register of the State Board of Land Commissioners should be created, his appointment authorized, his duties defined, and his salary fixed by law. He would naturally be the executive officer of the board and should have charge of all the business of the office, subject to such rules and regulations as the board may adopt. His salary should be in proportion to the importance of the duties of the office, and he should be required to give a bond for the faithful performance of such duties.

Our recommendation rests upon the fact that the already onerous and increasing duties of the several State officers comprising the board make it an impossibility to properly administer the duties of this board without neglecting others quite as important.

#### PROCEEDS OF SALES OF UNITED STATES LANDS WITHIN THE STATE.

Section 13 of the Act of Congress, approved February 22, 1889, entitled "An Act to provide for the division of Dakota into two states, and enable the people of North Dakota, South

Dakota, Montana and Washington to form Constitutions and state governments, and to be admitted into the Union on an equal footing with the original states, and to make donations of public lands to such states," provides for the payment to the state of five percentum of the net proceeds of the sales of public lands within the state which shall be sold by the United States after the state's admission. This account was adjusted in 1891 up to the end of the fiscal year ending June 30, 1891, and the sum of \$18,707.54 received and placed to the credit of the school fund. The account for the year ending June 30, 1892, has not yet been adjusted, although nothing has been left undone on our part to secure a settlement. Our latest information concerning it is contained in a telegram from the Commissioner of the General Land Office, dated November 21, 1892, saying that an adjustment would be had in about two months from this date. The amount to be received from this source will probably be about the same as last year.



TABLE NO. 3—CONTINUED.

Number . . .	DATE.	SCHOOL.		UNIVERSITY.		PUBLIC BUILDINGS.		STATE NORMAL SCHOOL.		TOTAL.
		Sales.	Leases.	Sales.	Leases.	Sales	Leases.	Sales.	Leases.	
61	June	6				144	S2			\$144 S2
62		8				128	00			128 00
63		8				103	37			103 37
64		13				168	00			168 00
65		13								88 00
66		14	240	00						240 00
67		18				120	00			120 00
68		18								96 00
69		27				145	08			145 08
70		27				144	00			144 00
71		27				137	05			137 05
72		29				480	00			480 00
73		29								160 00
74	July	7				78	00			78 00
75		14								110 75
76		19				76	15			76 15
77		19				20	00			20 00
78		21				104	00			104 00
79		22								54 00
80		26				128	00			128 00
81		26				104	00			104 00
82	Aug.	3				120	00			120 00
83		9				144	00			144 00
84		13				80	00			80 00
85		13				32	00			32 00
86		18				104	00			104 00
87		24				24	00			24 00
88		24				28	00			28 00
89		27				56	00			56 00
90		28				60	00			60 00
91		28				108	00			108 00
92		31								90 00
93	Sept.	3				90	00			90 00
94		3				180	00			180 00
95		3				90	00			90 00
96		3				90	00			90 00
97		7				90	00			90 00
98		8				80	00			80 00
99		9						100	00	100 00
100		27				80	00			80 00
101		30						112	00	112 00
102		30				44	00			44 00
103		30				80	00			80 00
104		30				24	00			24 00
105	Oct.	3				280	00			280 00
106		5						40	00	40 00
107		5						64	00	64 00
108		5				48	00			48 00
109		5				240	00			240 00
110		5				48	00			48 00
111		17	1,557	02						1,557 02
112		24				104	00			104 00
113		24				384	00			384 00
114		24						96	00	96 00
115		29				128	00			128 00
116		30				112	00			112 00
117		31				80	00			80 00
118		31				44	00			44 00
119		31				40	00			40 00
120		31						128	00	128 00
121	Nov.	4						48	00	48 00
122		4				82	00			82 00
123		4						111	27	111 27
124		4				60	00			60 00
125		7				20	00			20 00
126		7				10	00			10 00
127		12				32	00			32 00
128		14				88	00			88 00
129		14						480	00	480 00
130		14				28	00			28 00
131		16				40	00			40 00
132		16						40	00	40 00
133		16				64	00			64 00
134		16				40	00			40 00
135		16						112	00	112 00

TABLE NO. 3—CONTINUED.

Number ...	DATE.	SCHOOL.		UNIVERSITY.		PUBLIC BUILDINGS.		STATE NOR-MAL SCHOOL.		TOTAL.
		Sales.	Leases.	Sales.	Leases.	Sales.	Leases.	Sales.	Leases.	
136	Nov. 16	.....	64 00	.....	.....	.....	.....	.....	.....	\$64 00
137	16	.....	80 00	.....	.....	.....	.....	.....	.....	80 00
138	16	.....	40 00	.....	.....	.....	.....	.....	.....	40 00
139	16	.....	40 00	.....	.....	.....	.....	.....	.....	40 00
140	16	.....	80 00	.....	.....	.....	.....	.....	.....	80 00
141	16	.....	82 00	.....	.....	.....	.....	.....	.....	82 00
142	16	.....	60 00	.....	.....	.....	.....	.....	.....	60 00
143	16	.....	20 00	.....	.....	.....	.....	.....	.....	20 00
144	16	.....	.....	.....	112 00	.....	.....	.....	.....	112 00
145	16	.....	.....	.....	64 00	.....	.....	.....	.....	64 00
146	16	.....	.....	.....	128 00	.....	.....	.....	.....	128 00
147	16	.....	88 00	.....	.....	.....	.....	.....	.....	88 00
148	16	.....	48 00	.....	.....	.....	.....	.....	.....	48 00
		20,561 02	5,582 00	.....	.....	.....	.....	.....	.....	34,341 88
		*10,288 40	*88 25	.....	.....	.....	.....	.....	.....	10,376 65
	Total ....	\$30,850 32	\$5,670 25	.....	\$5,221 96	\$2,112 00	\$328 00	.....	\$536 00	\$44,718 53

\*School Addition to Missoula.



The total amount received and to be received from all sources to December 1, 1892, credited and to be credited to the different funds is as follows:

From Sales and Leases of State Lands.....	\$44,718.53
Received from United States, 1891.....	18,707.54
Escheated Estates.....	3,011.01
Due from United States, 1892 (estimated).....	18,000.00
 Total.....	<u>\$84,437.08</u>

CONCLUSION.

We have been careful in making up this report to include everything that would be of probable value or interest to yourself, the Legislative Assembly, and the citizens of the State generally, it being our intention to give such information as will enable all concerned to understand the system and manner of procedure in dealing with the State lands. We would suggest that a considerable number of these reports be printed and they be generally distributed throughout the State.

JOS. K. TOOLE,

Governor, President of the Board.

L. ROTWITT,

Secretary of State.

H. J. HASKELL,

Attorney General.

JOHN GANNON,

Superintendent of Public Instruction, Secretary.

Members of the State Board of Land Commissioners.

APPENDIX NO. I.

Forms of blanks used in the sale and leasing of State lands:  
 APPLICATION TO PURCHASE.

State of Montana.....County,  
 Postoffice of Applicant.....  
 Date.....189.....

To the Honorable State Board of Land Commissioners, Helena, Montana :

GENTLEMEN—I desire to purchase the land described in this application, and if offered, I agree and bind myself to bid the sum set opposite each subdivision per acre for each and every tract:

No. of Acres.	Subdivision of Section.	Sec	Tp.	Range.	Price per Acre.	Value of Improvements.	Name of Occupant or Owner of Improvements.
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
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.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....
.....	.....	.....	.....	.....	.....	.....	.....

Applicant will answer briefly the following questions, and the answers will be considered a part of this application:

- For what purpose is the land wanted? .....
- Is any person living on the land? .....
- If so, who? .....
- Are there improvements of any description on the land? If so, give name of owner? .....
- State value of same on each government 40-acre tract, and describe them. ....
- Is there any timber on the land? .....
- If it can be irrigated, state source and conditions. ....
- If so, how many acres, and on what government 40-acre tract situated? .....
- Does it contain stock water? .....
- Is any portion of it natural hay land? .....
- If so, how many acres, and on what government 40-acre tract situated? .....
- Are you a citizen of the United States? Or have you declared your intention to become such? .....
- Are you a resident of this State? .....
- Are you married or single? .....
- Is this application for your own use and benefit? .....
- Have you made any contract or agreement to sell or dispose of said land? .....

Name of Applicant.....

I.....do solemnly swear, or affirm, that the answers to questions in foregoing application are true to the best of my knowledge and belief, so help me God, .....

Subscribed and sworn before me this.....day of.....  
 A. D. 189.....

Notary Public.

APPENDIX NO. 2.

BOND OF PURCHASER OF STATE LANDS.

KNOW ALL MEN BY THESE PRESENTS, That we... as principal, and... as sureties, are held and firmly bound unto the People of the State of Montana, in the sum of... dollars, for the payment of which we bind ourselves, our heirs, executors, administrators and assigns, firmly by these presents

WHEREAS, The said... did on the... day of... A. D. 189..., purchase the following described State lands, lying and situate in... County, State of Montana, for the sum of... dollars, ... per cent. of which, or... dollars, were paid in cash, to-wit:

Table with 10 columns: Acres., Part of Section., Section., Town-ship., Range., Acres, Part of Section., Section., Town-ship., Range. The table contains multiple rows of dotted lines for data entry.

Now the condition of this obligation is such that if the above bounden... will secure the State from loss or waste, and will not cut or waste more timber than shall be necessary for the improvement of the land or for fuel for the use of the family of the purchaser, before final payment made for said land; and further, that... will well and faithfully pay the residue of the purchase money for said land to the Treasurer of the State of Montana, in seven equal annual payments, on the... day of... in each year, payments to be made to the State Board of Land Commissioners, with interest on each of the deferred payments at the rate of seven per cent. per annum from date; and further, that... shall and will faithfully comply with all the terms of the certificate of purchase issued to... by the State Auditor or the State Board of Land Commissioners, and with all the provisions of the law relating to the sale, etc., of State lands, then this obligation to be void, otherwise to be and remain in full force and effect.

Witness our hands and seals this... day of... A. D. 189...

Signed, sealed and delivered in presence of

Witness lines with [SEAL.] markers for signatures.

APPENDIX NO. 3.
TREASURER'S RECEIPT.

No. RECEIPT OF TREASURER, Montana, 189.
Received from Dollars Cents (\$)
being per cent. cash payment upon the Section No.
Township Range
leaving a balance unpaid of Dollars Cents (\$) to be
paid in seven equal annual payments, with interest at seven (7) per cent., as provided in Auditor's
certificate No.
\$
Credited to Treasurer.

APPENDIX NO. 4.
CERTIFICATE TO PURCHASER.

No. LANDS.
STATE OF MONTANA, }
Office of the State Auditor }
WHEREAS, On the day of A. D. 189
purchased from the State of Montana the following described lands, to-wit :

Table with 10 columns: Acres, Part of Section, Section, Town-ship, Range, Acres, Part of Section, Section, Town-ship, Range.

containing acres more or less. under and subject to the provisions of
"An Act to provide for the Selection, Location, Appraisal, Sale and Leasing of State Lands,"
approved March 6, 1891.

AND, WHEREAS, The said ha... paid to the State Treasurer
the sum of Dollars, leaving a balance of Dollars, for
the payment of which balance ha... executed bond,
as by law provided.

NOW, THEREFORE, The said h... heirs or assigns, will be
entitled to a Patent from the State of Montana to the land hereinbefore described, on the
day of A. D. 18... upon surrendering this certificate, and fully complying
with the conditions of said bond, and with all the provisions of the Statutes in such cases made and
provided, and upon the payment of the said sum of Dollars, the balance due pay-
able in equal installments of not more than seven in number, with interest upon the balance unpaid
at the rate of seven per cent. per annum.

Annual payments shall be made at the times as follows, to-wit:

	Month.	Day.	Year.	Principal.	Interest	Amount.	By Whom Received for State Board of Land Commissioners.	Date.
First payment.....								
Second payment..								
Third payment...								
Fourth payment..								
Fifth payment...								
Sixth payment...								
Seventh payment.								

Time is an essential ingredient in the premises, and the purchaser herein agrees, in accepting this certificate, to make the payments as above specified, or, on failure to do so, to immediately vacate said premises; thereafter remaining in possession of said property shall be unlawful, and the occupier may be summarily ejected, and the right of possession shall revert to the State of Montana.

The purchaser may obtain patent at the time of making any annual payment by paying the balance of principal in addition to the amount due at such time, and if the purchaser desire to make full settlement at any other time, such settlement will be made as if it were on the date of the next annual payment.

In witness whereof I have hereunto signed my name and affixed my seal, this ..... day of..... A. D. 18....

State Auditor.

ASSIGNMENT.

....., the within named purchaser..., for and in consideration of the sum of.....dollars, do hereby assign, transfer and sell all.....right, title, interest or claim in and to the following described tract or parcel of land to wit: The..... unto.....of.....County of.....State of.....and to.....heirs and assigns.

It is expressly understood that this assignment in no way releases the within purchaser from.....liabilities to the State of Montana, under.....bond, or by force of any law, to the injury of the interests of the State.

Given under.....hand and seal, this.....day of..... A. D. 18....

[SEAL]  
[SEAL]  
[SEAL]

APPENDIX NO. 5.

PATENT.

In the name and by the authority of the State of Montana, Joseph K. Toole Governor of said State. To all to whom these presents shall come, greeting:

State of Montana to.....Patent No.....  
Whereas. There has been deposited in the Executive office a certificate of the State Treasurer whereby it appears that pursuant to an act of the Legislative Assembly of the State of Montana, entitled "An act to provide for the selection, location, appraisal, sale and leasing of State lands," approved March 6, 1891, the right of.....to have a patent for.....of Section No.....Township No.....Range.....in the County of.....State of Montana, has been established and duly consummated in conformity to law.

Now know ye that there is therefore granted by the State of Montana unto the said.....of Section No.....Township No.....Range.....in the County of.....State of Montana, according to the official plat and survey thereof.

To have and hold the said land, with the appurtenances thereof, unto the said.....his heirs and assigns forever.

In testimony whereof I, Joseph K. Toole, Governor of the State of Montana, have caused these letters to be made patent, and the Great Seal of the State of Montana to be hereunto affixed, Given under my hand at the city of Helena the.....day of....., in the year of our Lord one thousand eight hundred and ninety.....and of independence of the United States the one hundred and.....

Attest:

Governor.

Secretary of State.

APPENDIX NO. 6.
APPLICATION TO LEASE.

State of Montana.....County.
Postoffice of Applicant.....
Date.....189..

To the Honorable State Board of Land Commissioners, Helena, Montana:

GENTLEMEN—I desire to lease for a term of five (5) years from this date, at the rate of.... per cent. per annum on the appraised valuation of the same, the following described....land, to-wit:

Table with 8 columns: No. of Acres, Subdivision of Section, Sec, Town-ship, Range, Price per Acre, Value of Improvements, Remarks.

Answer questions, sign and return for appraisal.

Applicant will answer briefly the following questions, and the answers will be considered a part of this application:

- For what purpose is the land wanted?
Is any person living on the land?
If so, who?
Are there improvements of any description on the land?
If so, state on what Government 40-acre divisions situated, and describe them.
Name of occupant or owner of improvements, and value
Is there any timber on the land?
Can it be irrigated?
If so, how many acres, and on what Government 40-acre divisions situated?
Does it contain stock water?
Is any portion of it natural hay land?
If so, how many acres, and on what Government 40-acre divisions situated?
Are you a citizen of the United States? Or declared your intention to become such?
Are you a resident of this State?
Are you married or single?
Is this application for your own use and benefit?
Have you made any contract or agreement to sell or assign the lease asked for?
Name of applicant

I, ....., do solemnly swear, or affirm, that the answers to questions in foregoing application are true to the best of my knowledge and belief, so help me God.

Subscribed and sworn to before me this.....day of.....A. D. 189..

Notary Public.

APPENDIX No. 7.

LEASE OF AGRICULTURAL LANDS.

THIS INDENTURE Entered into this..... day of.....  
 in the year of our Lord, one thousand eight hundred and ninety..... by and between  
 the State of Montana, party of the first part, and .....  
 of the County of..... in the said State, part..... of the second part;

WHEREAS, Said second part..... hath made application to lease certain of the  
 lands of said State for Agricultural purposes, by virtue of the statutes in such cases made and provided,  
 said lands lying and being in the County of..... in said State, and being  
 described as follows, namely:.....

Acres.	Part of Section.	Section.	Township.	Range.
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
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.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....
.....	.....	.....	.....	.....

AND WHEREAS, In pursuance of said statutes, said described lands have been duly appraised  
 at..... per acre, and the total value thereof found to be the sum of.....  
 DOLLARS;

AND WHEREAS, Said part..... of the second part, in pursuance of the said statutes, ha.....  
 executed the bond required thereby, and is now here ready to deliver the same, with a satisfactory  
 surety thereto.

NOW THEREFORE, THIS INDENTURE WITNESSETH, That the said party of the first part, for  
 and in consideration of the covenants and agreements hereinafter mentioned, to be kept and per-  
 formed by the said part..... of the second part..... executors and administrators, has  
 demised and leased to the said part..... of the second part, the lands described as aforesaid.

TO HAVE AND TO HOLD. The said above described premises, with the appurtenances unto the  
 said part..... of the second part,..... executors and administrators and assigns, for  
 the term of..... years, from the..... day of..... in the year  
 of our Lord one thousand eight hundred and ninety..... And the said part..... of  
 the second part in consideration of the leasing of the premises aforesaid by the said party of the  
 first part to the said part..... of the second part, do..... covenant and agree with the said party  
 of the first part, to pay unto the State of Montana the sum of..... DOLLARS,  
 annually in advance, as yearly rental. And the said part..... of the second part further covenants  
 with the said party of the first part, that as..... desires this lease for agricultural purposes  
 hereby demised, and cultivate so much thereof as may be suitable for farming, and improve the  
 same for such purposes.

IT IS FURTHER COVENANTED AND AGREED, Between the parties hereto that if at any time  
 during the existence of this lease, it becomes necessary, in the judgment of the part..... of the  
 first part, that a water right should be purchased from any person or corporation in order to irrigate  
 said land demised, or any part thereof, and with a view to the proper cultivation and improvement  
 of the same for such agricultural purposes, the party of the second part may purchase and attach  
 such water right to said land, and such water right shall become a valuable and permanent im-  
 provement to said land, then and in that case the said water right shall be so treated by the party of  
 the first part, and the part..... of the second part shall be entitled to receive the actual value of

said water right in case of the sale of said land by the party of the first part, in the same manner as he shall be entitled to receive the value of other improvements he may place upon said lands.

IT IS FURTHER COVENANTED AND AGREED, Between the parties hereto, that said second party at the expiration of the time of this Lease mentioned, will yield up the said premises to the said party of the first part; and that neither.....he.....the said..... nor..... legal representative will permit any loss, nor commit nor cause to be committed, any waste, in to or upon said premises, or any part thereof, nor use the same except for Agricultural and Grazing purposes; and will not cut or waste or allow to be cut or wasted, any timber or standing trees that may now be upon said described premises, save and except only such as may be necessary for improvements on the said described premises, or for fuel that may be necessary for the use of said part .....of the second part and.....famil.....

AND IT IS EXPRESSLY UNDERSTOOD AND AGREED, By and between the parties aforesaid, that if the rent above reserved, or any part thereof, shall be behind or unpaid on the day of the payment whereon the same ought to be paid as aforesaid or if default shall be made in any of the covenants or agreements herein contained, to be kept by the said part.....of the second part,..... executors and administrators, it shall and may be lawful for the said party of the first part, at its election, to declare said term ended, and into the said premises, or any part thereof, to re-enter.

IN CASE OF DEFAULT IN, And of any or the covenants herein contained, upon thirty days' notice by the party of the first part to the part.....of the second part that the said term has been declared ended, the said part.....of the second part agree.....to surrender the peaceful possession of said premises to the party of the first part; and in default of the peaceful surrender of said premises, the part.....of the second part agree.....to pay to the party of the first part, as liquidated damages, double the amount of the rental for one year, to be recovered from the part.....of the second part and.....secur'ities.

IN WITNESS WHEREOF, Said party of the first part hath caused these presents to be attested and sealed by its President; and the part.....of the second part hath hereunto set ..... hand..... and seal..... on this, the day and year first herein above written.

Counter-signed by ..... Governor of the State of Montana. [SEAL].  
 ..... Secretary of State.

The annual payments shall be made at the times as follows, to-wit:

	Month.	Day.	Year.
First Payment.....			
Second Payment .....			
Third Payment .....			
Fourth Payment .....			
Fifth Payment.....			

ASSIGNMENT.

....., within named lessee, for and in consideration of the sum of ..... DOLLARS, do hereby assign, transfer and sell all ..... right, title, interest or claim in and to the following described tract or parcel of land, to-wit: The..... of..... County of ..... State of....., and to..... heirs and assigns.

IT IS EXPRESSLY UNDERSTOOD, That this Assignment in no way releases the within Lessee and Bondsmen from their liabilities to the State of Montana, under..... bond or by force of any law, to the injury of the interests of the State.

Given under.....hand.....and seal....., this.....day of.....A. D. 18..  
 ..... [SEAL]  
 ..... [SEAL]  
 ..... [SEAL]



APPENDIX NO. 8.

BOND OF LESSEE OF STATE LAND.

WHEREAS, ..... did, on the ..... day of ..... A. D. 189... make application to "The State Board of Land Commissioners" of Montana to lease for the benefit of the ..... fund of the State, the following described land, situate in ..... County, State of Montana, for the term of five years, at and for the yearly rental of the sum of ..... dollars per annum, payable in advance, "that being not less than five per cent. of the appraised value thereof," to-wit:

Table with 5 columns: Acres, Part of Section, Section, Township, Range. The table contains multiple rows of dotted lines for data entry.

Containing, according to United States survey ..... acres, be the same more or less.

Now, therefore, know all men by these presents:

That we, ..... as principal, and ..... as sureties, of the County of ..... and State of Montana, are held and firmly bound unto the State of Montana in the sum of ..... dollars, lawful money of the United States, to be paid unto the State of Montana, which payment well and truly to be made, we bind ourselves, our and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals, on this the ..... day of ..... one thousand eight hundred and ninety.....

The condition of the above obligation is such, that if the above bounden ..... executors administrators or assigns shall in all things stand to, and abide by, and well and truly keep and perform the covenants, conditions and agreements, and each and every of them, and every part thereof, on ..... part to be performed, which are contained in a certain indenture of the lease, bearing even date with the above application, entered into between the State Board of Land Commissioners of the State of Montana, party of the first part, and the said ..... part ..... of the second part, covering the above described lands, and shall not permit any loss nor cause to be committed any waste in, to, or upon said premises, or any part thereof, and will not cut or waste, or allow to be cut or wasted, any timber or standing trees that may now be upon said described premises, save and except only such as may be necessary for improvements on the said described premises, or for fuel that may be necessary for the use of said ..... and ..... famil..... all of which shall be cut and removed according to the rules and regulations of the State Board of Land Commissioners, and shall surrender said premises at the expiration of the term of said lease, then the above obligation shall be void; else to remain in full force and virtue.

..... [SEAL.]
..... [SEAL.]
..... [SEAL.]

APPENDIX No. 9.

CIRCULAR PRESCRIBING RULES AND REGULATIONS FOR MAKING SELECTIONS OF LAND IN THE STATES OF MONTANA, NORTH DAKOTA, SOUTH DAKOTA, AND WASHINGTON, UNDER THE GRANTS TO SAID STATES.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
WASHINGTON, D. C., May 27, 1891.

*The Registers and Receivers of U. S. Land Offices in Montana, North Dakota, South Dakota and Washington.*

GENTLEMEN:

The following rules and regulations are prescribed for making selections of land in the States of Montana, North Dakota, South Dakota and Washington, under the provisions of the acts of Congress of February 22, 1889 (25 U. S. Stat., 676), entitled "An act to provide for the division of Dakota into two States and to enable the people of North Dakota, South Dakota, Montana and Washington, to form constitutions and State governments and to be admitted into the Union on an equal footing with the original States, and to make donations of public lands to such States," and of February 28, 1891 (U. S. Stat., 51st Cong., Sess. II, p. 795), entitled "An act to amend sections twenty-two hundred and seventy-five and twenty-two hundred and seventy-six of the Revised Statutes of the United States providing for the selection of lands for educational purposes in lieu of those appropriated for other purposes."

Section 10 of the act of February 22, 1889, provides:

That upon the admission of each of said States into the Union sections numbered sixteen and thirty-six in every township \* \* \* and where such sections, or any parts thereof, have been sold or otherwise disposed of by or under the authority of any act of Congress, other lands equivalent thereto, in legal subdivisions of not less than one-quarter section, and as contiguous as may be to the section in lieu of which the same is taken, are hereby granted to said States for the support of common schools, such indemnity lands to be selected within said States in such manner as the legislature may provide, with the approval of the Secretary of the Interior.

Said section contains the following proviso:

That the sixteenth and thirty-sixth sections embraced in permanent reservations for national purposes shall not, at any time, be subject to the grants nor to the indemnity provisions of this act, nor shall any lands embraced in Indian, military, or other reservations of any character be subject to the grants or to the indemnity provisions of this act until the reservation shall have been extinguished and such lands be restored to, and become a part of, the public domain.

Section 11 relates to the sale and leasing of the lands granted in the sections 16 and 36, and provides:

And such land shall not be subject to pre-emption, homestead entry, or any other entry under the land laws of the United States, whether surveyed or unsurveyed, but shall be reserved for school purposes only.

The proviso to section 10, and the portion of section 11, above cited, is so far as they are in conflict with sections 2275 and 2270, Revised Statutes of the United States, as amended by the act of February 28, 1891, are superceded by the provisions of said amended sections, and the grant of school lands provided for in the act of February 22, 1889, should be administered and adjusted in accordance with the later legislation, (12 L. D. 400).

Section 2275, Revised Statutes, as amended by the act of February 28, 1891, grants to the several States and Territories as indemnity for sections 16 and 36, lands of equal acreage with those lost, to be selected anywhere within the State or Territory where such losses occur, in the following cases, viz:

1. Where sections 16 or 36, or any portions thereof, have been settled upon prior to survey, under the provisions of the pre-emption or homestead law.
2. Where such sections are mineral lands, or are included within any Indian, military, or other reservation, or are otherwise disposed of by the United States.
3. Where sections 16 or 36 are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever.

Section 2275 contains the following provisos:

Where any State is entitled to said sections sixteen and thirty-six, or where said sections are reserved to any Territory, notwithstanding the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections. *It is also provided:* That nothing herein contained shall prevent any State or Territory from awaiting the extinguishment of any such military, Indian, or other reservation and the restoration of the lands therein embraced to the public

domain and then taking the sections sixteen and thirty-six in place therein; but nothing in this proviso shall be construed as conferring any right not now existing.

Said section further provides:

And it shall be the duty of the Secretary of the Interior, without awaiting the extension of the public surveys, to ascertain and determine, by protraction or otherwise, the number of townships that will be included within such Indian, military, or other reservations, and thereupon the State or Territory shall be entitled to select indemnity lands to the extent of two sections for each of said townships, in lieu of sections sixteen and thirty-six therein; but such selections may not be made within the boundaries of said reservations.

Section 18 of the act of February 22, 1889, relates to mineral lands, and to indemnity for sections 16 and 36 found to be mineral. This class of indemnity is also provided in the later general act above referred to, and instructions in relation thereto will be found on page 4 of this circular.

Section 19 of the act of February 22, 1889, provides:

That all lands granted in quantity or as indemnity by this act shall be selected, under the direction of the Secretary of the Interior, from the surveyed, unreserved, and unappropriated public lands of the United States within the limits of the respective States entitled thereto. And there shall be deducted from the number of acres of land donated by this act for specific objects to said States the number of acres in each heretofore donated by Congress to said Territories for similar objects.

1. Under the provisions of the foregoing acts where either of the sections 16 or 36, or any parts thereof, have been sold or otherwise disposed of in the manner indicated above, the State will be entitled to select an equal quantity of land in lieu thereof. The selections must be made of surveyed agricultural, non-mineral lands, in legal subdivisions, according to the approved township plats on file at the time.

2. The selections should be made by the Governor or by any agent duly appointed, acting under the authority of the legislature of the State, evidence of whose right so to act must be filed in the local offices and in this office.

3. The law allows selections to be made of surveyed lands, whether offered or unoffered; but no selection is admissible of lands to which a valid pre-emption or other claim shall be legally established, nor of any land which is, or may be, reserved from sale by any law of Congress, or proclamation of the President of the United States, nor of land which is reserved or withdrawn from market for any purpose, nor of mineral land. The character of the lands selected will be determined under the rules existing as to agricultural land entries. In all cases the selected tracts must be covered by non-mineral affidavits made by the duly appointed selecting agent, or by an agent appointed by the selecting agent for the purpose, and if by the latter, evidence of his appointment should accompany the affidavits.

4. The lists of selections under the several grants should have a regular, but separate and distinct, series of numbers commencing with number one. In the case of school-land indemnity selections, the selected tracts on the one side must be connected with specific bases of exactly the same quantity on the other side. Respecting the method of so balancing the selections, you are referred to the circular letter from this office of July 29, 1887, page 121 of the Commissioner's annual report for 1887, which was sanctioned by the Department in the case of *Melvin, et. al. v. California* (6 L. D., 702), and is now applicable to your districts.

5. In presenting selections of indemnity lands, based on sections sixteen and thirty-six, or portions thereof, found upon survey to be in the occupancy and covered by the improvements of an actual pre-emption or homestead settler, whose settlement was made before the survey of the land in the field, the State may proceed in one of two ways to have its rights defined:

*First*—By proving such occupation at the date of survey, and up to the time of the selection, by the testimony of at least two respectable disinterested witnesses. In such instances the qualifications of the alleged pre-emptor or homesteader must be shown, and also the occupancy and improvements as to each subdivision used as the basis of selection.

*Second*—By relying on the proofs of pre-emption and homestead settlers claiming by virtue of settlement prior to survey, after entry by them. The validity of such basis of selection would depend upon the establishment of the fact of such settlement before this Department.

6. In making selections founded on deficiencies in the school sections the bases should be carefully described in the lists of selections, by sub-divisions, section, township and range, or by fractional townships, where the school sections are entirely wanting.

7. The language of the law is plain as to the quantity of indemnity lands that may be selected in lieu of mineral lands upon a determination of their mineral character, and respecting such determination the following is prescribed:

*First*—A determination by the Secretary of the Interior, or a decision by this office, or by the local officers, which has become final under the Rules of Practice, that a portion of the smallest legal subdivision in a section numbered 16 or 36 is mineral land, will place the entire subdivision in the class of bases that may be used in selections of land as indemnity.

*Second*—All the lands in said sections 16 or 36, returned as non-mineral, must be presumed to be school lands, for the purposes of this act, until the presumption is overcome in the manner hereinafter indicated. The bare return of lands as mineral by the surveyors-general will not be

regarded as conclusive in classifying them as mineral, the returns of the deputy surveyors as to the character of the land surveyed having been found in many cases to be indefinite or erroneous.

*Third*—In the absence of a decision by this department that land in a school section is either mineral or non-mineral in character, the State may proceed as follows:

(a) By applying to this office, through the proper district office, where the land has been returned as non-mineral, for a certificate that the land was rightly so classed. Such certificate will determine whether the reservation for schools took effect upon the lands in place so as to place it beyond attack by mineral claimants. Notice of such proceeding must be given by publication and posting in the manner prescribed by the Rules of Practice.

(b) By proceeding to prove land which has been returned as mineral to be in fact non-mineral, in the manner prescribed in circulars "N" of September 23, 1880, and October 31, 1881.

(c) By relying upon the record for indemnity where lands have been entered as mineral. Where the State authorities have information that the mineral character of tracts in sections 16 and 36 is shown by evidence in this office, a list thereof may be sent here through the proper district office, to determine whether they may be used as bases for selections. If the decision should be in the negative, the character of such tract may be determined under the procedure indicated in the first and second subdivisions of this paragraph.

8. The remaining grants made by the act referred to are as follows, and the rules prescribed in numbered paragraphs 3 and 4 are also applicable to the selections of these.

9. By section 12 there are granted for the purpose of erecting public buildings at the several capitals for legislative, executive and judicial purposes, 50 sections (32,000 acres).

10. Section 14 vests in the States of Montana, North Dakota and South Dakota the lands granted to them respectively by the act of February 18, 1881, for university purposes, viz: Seventy-two sections to each (46,080 acres), and provides that any portion thereof remaining unselected may now be selected.

11. Section 15 vests in the State of South Dakota the lands granted by the act of March 2, 1881, for a penitentiary, together with the buildings thereon, and any unexpended balances of the \$30,000 heretofore appropriated for that purpose, and extends like grants for the same purpose to the States of Montana, North Dakota and Washington.

12. Section 16 grants to each of the said States, except South Dakota, for the use and support of agricultural colleges therein, 90,000 acres, and to South Dakota 120,000.

13. Section 17 provides that in lieu of the grant for internal improvements by section 8 of the act of September 4, 1841, and also in lieu of any claim for swamp or saline lands, the following amounts are granted for the purposes specified, viz:

To the State of Montana:

	Acres
For a school of mines.....	100,000
State Normal schools.....	100,000
Agricultural colleges, in addition to the amount hereinbefore granted.....	50,000
State reform school.....	50,000
Deaf and dumb asylum.....	50,000
Public buildings, in addition to the amount hereinbefore granted.....	150,000
<b>Total amount.....</b>	<b>500,000</b>

To North Dakota and South Dakota, each:

	Acres
For the school of mines.....	40,000
Reform school.....	40,000
Deaf and dumb asylum.....	40,000
Agricultural college.....	40,000
University.....	40,000
State Normal schools.....	80,000
Public buildings at the capital.....	50,000
For such other educational and charitable purposes as the Legislature may determine.....	170,000
<b>Total amount.....</b>	<b>500,000</b>

To the State of Washington:

	Acres
Scientific School.....	100,000
State Normal schools.....	100,000
Public buildings, in addition to grant hereinbefore made.....	100,000
State charitable, educational, penal and reformatory institutions.....	200,000
<b>Total amount.....</b>	<b>500,000</b>

These instructions are also applicable to all States and Territories except the State of Nevada, which has a grant in quantity, and Alaska, for which no reservation of public lands has been made.

Very respectfully,

W. M. STONE,  
Acting Commissioner.

Approved:  
GEO. CHANDLER, Acting Secretary.

















